

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

AABRIAL L. JOHNSON,

Petitioner,

v.

CIVIL ACTION NO. 5:23-cv-00602

WARDEN HOLZAPFEL,

Respondent.

ORDER

Pending are Petitioner Aabrial L. Johnson's Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [Doc. 1], filed September 8, 2023, and Respondent Warden Holzapfel's Motion to Dismiss or, in the alternative, Motion for Summary Judgment [Doc. 8], filed November 8, 2023. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on July 3, 2024. Magistrate Judge Tinsley recommended that the Court deny as moot Mr. Johnson's Petition for a Writ of Habeas Corpus and Warden Holzapfel's Motion to Dismiss, or in the alternative, Motion for Summary Judgment given Mr. Johnson's release from BOP custody and dismiss this matter from the docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's

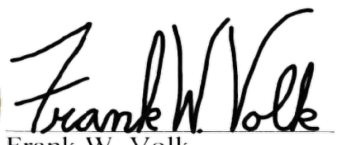
right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on July 22, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 11**], **DENIES AS MOOT** Mr. Johnson’s Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 [**Doc. 1**] and Warden Holzapfel’s Motion to Dismiss, or in the alternative, Motion for Summary Judgment [**Doc. 8**], and **DISMISSES** this matter from the docket.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: August 6, 2024




Frank W. Volk
United States District Judge